



ESPAÑOLA POLICE DEPARTMENT DIRECTIVES

REVIEWED AND APPROVED: December 1st, 2009


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required and documented pursuant to a case plan and standard operating procedure.

- C. Personnel are prohibited from consuming alcoholic beverages while operating a city vehicle or eight (8) hours prior to operating such vehicle.
- D. Personnel are prohibited from the consumption of alcohol within eight (8) hours of the employee's scheduled time to report to work, or within eight (8) hours following an accident or until the employee takes a post-accident alcohol and/or drug test, whichever occurs first, as per Union and City of Espanola contract agreement
- E. Personnel shall not possess or use any controlled substance in violation of city, state or federal law, whether on or off duty. Should an officer be taking prescribed medication that affects duty performance they must either remain off-duty, or if requesting alternate duty, give notice through their chain of command of the nature and effects of the prescription. Management may approve or disapprove the request for alternate duty assignment based on available assignments and effects of the prescription.
- F. Personnel are required to submit to reasonable suspicion alcohol and/or drug testing when directed by the City of Espanola; and prohibited from tampering or attempting to tamper with such alcohol and/or drug testing, as per City of Espanola Rules and Regulations and the Espanola Police Officers Association contract agreement.

23.1.05 Gratuities, Bribes and Rewards

- A. Personnel shall not solicit or accept, either for themselves or other personnel, gifts, gratuities, or compensation for services performed in the line of duty, other than that which is paid by the City, or which is allowed by the Personnel Rules and Regulations, unless authorized by the Chief of Police.
- B. The department does not endorse departmental members accepting any items or services free of charge or at a discounted rate that is not available to the general public. Establishments making such offers shall not receive any preferential treatment or official considerations,

and shall be treated the same as any other business or establishment.

- C. Shopping on-duty or off-duty, while in uniform, is discouraged, as it may invite special consideration on the part of the merchant.

23.1.06 Abuse of Authority

- A. Departmental members shall not use their official positions to gain entry into any event without paying admission, except in the line of duty. Such events may include, but are not limited to:
 - 1. Sporting events
 - 2. Liquor establishments
 - 3. Places of amusement
- B. Departmental members shall not use their official position or official identification card or badge:
 - 1. To obtain personal or financial gain
 - 2. To obtain privileges not otherwise available to them except in the performance of their duties
 - 3. To avoid consequences of illegal acts
- C. Departmental members shall not use their official positions to coerce any individual into acting in a manner contrary to legal codes.

23.1.07 Use of Force

- A. Departmental personnel shall strictly adhere to the department's use of force policy as it is written in the directive 72.1 entitled, "Use of Force".

23.1.08 Proper Care and Maintenance of Equipment

- A. Personnel shall at all times be responsible for the safeguarding and proper use of all departmental-issue property. All authorized equipment shall be utilized only for its intended purpose and in accordance with established departmental procedures.
- B. Personnel shall not abuse, or intentionally damage or lose departmental equipment.
- C. Personnel shall operate official vehicles in a careful and prudent manner and shall obey all

26.1**TITLE: INTERNAL AFFAIRS****CODIFIED: 26.1****EFFECTIVE: 09/01/09****PAGES: 5****PURPOSE**

In recognition of the need to maintain departmental integrity, the Internal Affairs Unit is created and charged with the responsibility of impartially and objectively investigating all allegations of malfeasance, non-feasance, and misfeasance brought against any member of this department.

The Internal Affairs Unit will conduct investigations into allegations of misconduct as outlined herein for the purpose of providing the Chief of Police with a means of impartially assessing employee actions to ensure compliance with departmental rules regulations, to enforce internal discipline, and to provide a vehicle through which citizen concerns may be equitably evaluated and judiciously addressed.

DISCUSSION

A system to review and investigate complaints and allegations is essential to establish and maintain the confidence of the citizens of the City of Espanola, in order to protect the integrity/rights of the Department employees and to protect the public from police misconduct

POLICY

It is the policy of the Espanola Police Department to maintain internal discipline, open lines of communication with the general public, and encourage citizens to freely express concerns or complaints of misconduct, malfeasance, or other inappropriate conduct by members of the Espanola Police Department. All members of the department are responsible for ensuring departmental integrity and assisting in the expeditious response to citizen complaints in a fair and impartial manner.

PROCEDURE**ORGANIZATION & STAFFING**

26.1.01 The Internal Affairs Unit is staffed by one sergeant or lieutenant who reports directly to the Chief of Police and is responsible for its management and operation.

A. Under certain conditions, the Chief of Police may appoint other police personnel, to conduct an Internal Affairs Investigation.

1. Circumstances are listed as, but not limited to absence by the IA Sergeant/Lieutenant; the existence of multiple complaints at one time; the existence of a possible conflict of interest.

RESPONSIBILITIES & DUTIES

26.1.02 The Internal Affairs officers are responsible for performing the following duties in accordance with department policies and all applicable laws:

- A.** Recording, registering, and controlling all alleged or suspected misconduct complaints against the agency and its employees;
- B.** Supervising and controlling the investigation of alleged or suspected misconduct within the department;
- C.** Overseeing the investigation of complaints into violations of department policy assigned to personnel outside of the Internal Affairs Unit;
- D.** Maintaining the confidentiality of the Internal Affairs Investigation;
- E.** Maintaining all records pertaining to internal investigations in a secure area within the Internal Affairs Unit.
- F.** Take all proper precautions to ensure the security of these records. These records shall be stored separate and apart from personnel records
- G.** Administering, maintaining and investigating civil actions brought against the department;

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H. Disseminating information to the public on procedures to be followed in registering complaints against agency employees.

26.1.03 The Public Information Officer and the Crime Prevention Unit shall disseminate information to the public on procedures for registering complaints against the Department and its employees.

AUTHORITY

26.1.04 The Internal Affairs officers have been delegated the authority to investigate all allegations of misconduct. Misconduct is an act or omission by an employee which if proven would normally result in some form of employee discipline or remediation. This would include:

- A. Violation of Department or City policy, procedure, rule, regulation,
- B. Neglect of duty,
- C. Conduct which may tend to reflect unfavorably upon the employee and/or department, or
- D. Commission of a criminal act/misconduct.

26.1.05 The most severe sanction, which may arise out of an Internal Affairs Investigation/administrative investigation, is loss of employment.

26.1.06 Investigations will be addressed as follows:

- A. Employees under investigation will be advised of the nature of the allegation and the investigation in writing.
- B. Employees under investigation are required to answer all questions truthfully, even if the answers may result in departmental sanctions. Failure to answer questions truthfully will result in disciplinary action, including termination. The officer's compelled statement shall be used only for administrative purposes.
- C. An employee may not claim a 5th amendment privilege to avoid self-incrimination during an administrative investigation as the employee's compelled statement may not be used, under any circumstances, for the criminal prosecution of an employee.
- D. All formal complaints investigated by the Internal Affairs Unit will be brought to the

attention of the Chief of Police, via memorandum, within one (1) working day of the receipt of the complaint.

E. Concurrent Investigations

1. Some situations may require that an incident be investigated both administratively and criminally. The administrative portion of the incident will be investigated internally and the criminal allegations will be investigated by an outside law enforcement agency. In cases where investigations are launched for both purposes, the employee will be clearly informed of the purpose of any contact and the employee's rights at the time of contact.
2. The Internal Affairs officers will be the designated department liaison with the District Attorney's Office or outside law enforcement agency if a department employee is also under criminal investigation.
3. The Internal Affairs Officers will be responsible for the administrative investigation only.
4. Absolutely no investigative findings may be provided to the agency or person investigating alleged criminal activity by the Internal Affairs Officers, nor will any contact(s) be made by both a criminal investigator or administrative investigator at the same time.

INVESTIGATION

26.1.07 A valid complaint can come from both an external and internal source and must be:

- A. An allegation from any source of circumstance(s) amounting to a specific act or omission which if proven true would amount to employee misconduct, or
- B. An expression of dissatisfaction from an external source with a policy, procedure, practice, philosophy, service level or legal standard of the department.

NOTE: A disagreement simply over the validity of a traffic/vehicle code citation is not

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grounds for the initiation of a personnel complaint. The complaining person should be advised that this is a matter for adjudication by the proper court system.

C. All complaints as specified above will be recorded and investigated. Investigation of complaints shall be initiated upon receipt of a complaint by a citizen or member of the department, an anonymous complaint (with the approval of the Chief of Police), incidents requiring investigation as determined by policy, and other incidents and/or situations as determined by the Chief of Police.

D. All investigations shall afford officers their rights and stipulations as set forth with the City of Espanola Personnel Rules and Police Officers Union Contract.

26.1.08 Complaints, allegations, or inquiries are classified into two (2) categories: formal complaints and inquiries.

A. Formal Complaints

1. Complaints or allegations of employee misconduct which fall within one of the following areas may be classified as formal complaints:
 - a. Unnecessary or the excessive use of force
 - b. Discrimination
 - c. Violations of department rules and regulations, City Personnel Rules and Regulations, or criminal statutes.
2. All formal complaints will be recorded, assigned a case investigation number, logged on the Internal Affairs case assignment log, and reported to the Chief of Police, via memorandum, within one day of their receipt.

B. Inquiries

1. Inquiries are concerns expressed of a general nature and not necessarily attributed to any specific action by a department employee, or which have no complainant, or where the complainant does not desire to pursue any action beyond the initial contact.

2. Inquiries shall be recorded, numbered, and logged on the appropriate inquiry record and shall be investigated accordingly.
3. Complaints or allegations categorized as inquiries may be referred to an employee's immediate supervisor for investigation and corrective action, if appropriate. Inquiries will be documented, via memorandum, and maintained in the Internal Affairs files by the Internal Affairs Officer.

C. Operational Complaints

1. Employee actions or conduct resulting in complaints of poor performance, attitude and demeanor, or enforcement of department policies viewed by the complainant as unfair or inequitable, shall be classified as an operational complaint.
2. Operational Complaints generally fall within the purview of supervisor domain and may be referred to the accused employee's supervisor for investigation.

AUTHORITY TO DISCIPLINE

26.1.09 Lieutenants, Sergeants and Civilian Supervisors have the authority to discipline employees in the form of verbal counseling, verbal or written reprimands, and emergency suspension.

26.1.10 Suspension, demotion, and dismissal may be recommended by a supervisor on the prescribed form to the Chief of Police or his designee is authorized to impose additional disciplinary action as prescribed by the Espanola City Personnel Rules and Regulations.

26.1.11 Emergency suspension of a subordinate may be imposed by a supervisor and/or commanding officer only in situations where the suspended member is physically or mentally unable to perform his/her duties and/or the employee is alleged to have committed severe infractions of the department's policies and procedures.